

answer, but it gives to the complainant, leave to surcharge and falsify the account in certain particulars, and decides definitively certain points in difference, which must change, essentially, the state of accounts between the parties ; leaving others open for further evidence. It is said by the plaintiff, that an account stated upon the principles of the order in question, will entirely shift the balance, and show the plaintiff to be a creditor, instead of a debtor, as he appeared to be, to a large amount, by the account upon which the settlement was made.

It is not, then, an order, simply determining a question of right between the parties, and directing an account generally, as in the case of *Forbes vs. Forbes*, referred to in the argument ; but, it is an order, determining to a considerable extent the elements of which the account shall be composed. It decides, that the complainant, in the settlement complained of in the bill, was charged with several sums of money erroneously, which of course are to be struck from the account, and, that he should be credited with other sums which were not credited. Upon some of these items the decision is final, as much so as if the Auditor had stated an account in conformity with the order, and his account had been ratified.

This order, therefore, differs widely from an order simply rescinding a settlement between parties, and directing an account upon certain legal principles declared by the court, leaving the adjudication of every thing else open for further consideration.

Upon appeal from an order of this latter character, the reviewing court, in any event, whether they reverse or affirm the order, unless, indeed, they dismiss the bill, must remand the cause to this court, when the whole question of the account, should an account be ordered, would be open to the same extent as before the appeal, and the almost inevitable result would be a second appeal after the account should be taken and affirmed. This, however, is not likely to be the case here, as upon reviewing the order of this court, the Court of Appeals will have before them the materials for putting an end to the controversy.